



H.R. 3021 – 21ST CENTURY GREEN HIGH-PERFORMING PUBLIC SCHOOL FACILITIES ACT

EXECUTIVE SUMMARY

This legislation was introduced by Representative Ben Chandler (D-KY) on July 12, 2007. The House Committee on Education and Labor approved the bill, as amended, by a vote of 28 to 19 on April 30, 2008. H.R. 3021 is expected to be considered on the floor of the House on June 4, 2008.

HR. 3021 requires the Secretary of Education to make grants to states and local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities. The bill requires local educational agencies receiving grants to use a percentage of the funding towards repair and modernization projects that meet Leadership in Energy and Environmental Design (LEED) green building rating standards or any other environmental standards that have jurisdiction over the educational facility. H.R. 3021 also extends federal Davis Bacon requirements to all federally financed school construction projects.

The White House issued Statement of Administrative Policy (SAP) containing a veto threat. Additionally, House Republican Education and Labor Committee Members have argued that the H.R. 3021 “creates a massive and unproven \$20 billion federal school construction program that undermines efforts to increase funding for important education priorities such as Title I and IDEA. The bill would undermine efforts at the state and local level to build and modernize schools while significantly expanding the size and scope of the federal government.”

The Congressional Budget Office “estimates that H.R. 3021 would increase discretionary spending by \$20.3 billion over the 2009-2013 period.”

FLOOR SITUATION

H.R. 3021 is being considered on the floor under a structured rule. The rule:

- Provides one hour of general debate equally divided and controlled by the Chairman and the Ranking Minority Member of the Committee on Education and Labor.
- Waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor, now printed in the bill, shall be considered as an original bill for the purposes of amendment and shall be considered as read.
- Waives all points of order against the amendment in the nature of a substitute except clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).
- No amendments shall be in order except those amendments printed in the Rules Committee report accompanying the resolution.
- Provides that the amendments made in order may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read,



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shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

- Waives all points of order against the amendments printed in the report except for clauses 9 and 10 of rule XXI.
- Provides one motion to recommit with or without instructions.
- Provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

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BACKGROUND

The condition of our nation's local public school facilities is an important issue in states and local communities all across the country. Over the last 70 years, the federal government has had an extremely limited, almost non-existent, role in financing school construction projects, which have been a state and local responsibility. During the 1930s and 1940s, the federal government provided more than \$611 million in federal funds to build public schools. Since this time period, federal funds for school construction has been limited to either building and repairing schools using Impact Aid funds or building and repairing schools located on Indian Reservations through the Bureau of Indian Affairs. Impact Aid provides federal assistance to local school districts with concentrations of children residing on Indian lands, military bases, low-rent housing properties, or other federal properties and, to a lesser extent, concentrations of children who have parents in the uniformed services or employed on eligible Federal properties who do not live on federal property.

The federal government has deliberately focused its attention and funding on these programs and others that improve student achievement such as fully funding Title I grants to local educational agencies to help educate low-income and other disadvantaged students and the Individuals with Disabilities Education Act (IDEA) which helps states and school districts provide special education for children with disabilities.

States and local communities enjoy the rights and responsibilities of setting public policy over education, particularly public elementary and secondary education. The federal government is responsible for only about nine percent of all K-12 spending with state governments contributing 47 percent of funding to public school systems, followed by local sources at 44 percent. To this end, according to the *School Planning and Management's 2008 School Construction Report*, school construction valued at an estimated \$20.8 billion was completed in 2007, up from \$20.1 billion in 2006. This marks the seventh year in the last eight that annual construction exceeded \$20 billion. From the 2007 construction level, an estimated \$13.1 billion went into the design and construction of **new** schools, with the remainder of the money for renovation and additions to existing school buildings. The percentage of construction dollars, according to the report, spent on new buildings was the highest since 1979. According to the report, during the past eight years, school districts have completed construction projects totaling more than \$166 billion.

[Department of Education – Office of Elementary and Secondary Education](#)



SUMMARY

Grants for Repair and Modernization of Schools

HR. 3021 requires the Secretary of Education to make grants to states and local educational agencies for the construction, modernization, or repair of public kindergarten, elementary, and secondary educational facilities.

Funds are distributed among the states on the basis of the funds annually provided to local educational agencies in each state under Title I of the Elementary and Secondary Education Act of 1965 (P.L. 89-10), which is targeted to those areas with high concentrations of children in poverty. Additionally, the bill reserves one percent of grant funds for assistance to Indian schools.

Supplemental Grants for Louisiana, Mississippi, and Alabama

The bill makes supplemental grants to Louisiana, Mississippi, and Alabama to make them safe and modernized after damage caused by Hurricanes Katrina or Rita. Supplemental funds will be allocated among these states based on the number of schools in each state closed for at least sixty days between August 29 and December 31, 2005, because of hurricane damage.

Use of Funds

The legislation prohibits local educational agencies receiving funds under this Act from using funds for maintenance costs or for facilities that are used primarily for events that charge public admission, such as stadiums. Funds are also not to be used to replace funds otherwise available for school repair and modernization.

Davis Bacon

H.R. 3021 extends federal Davis Bacon requirements to all federally financed school construction projects. Davis Bacon requires all laborers and mechanics employed by contractors or subcontractors to be paid no less than the localities prevailing wage.

** Note: From the Minority Views Section of the Committee Report for H.R. 3021: "Any federal school construction program is subject to the requirements of the Davis-Bacon Act. It is estimated that this requirement dramatically raises the costs of school construction by as much as one-third in some parts of the country, especially in those local communities that have lower costs and are not subject to the flawed prevailing wage structure."*

Green Building Requirements

The bill requires local educational agencies receiving grants to use a percentage of the funding (increasing from fifty percent in 2009 to ninety percent in 2013) towards repair and modernization projects that meet Leadership in Energy and Environmental Design (LEED) green building rating standards, Energy Star standards, or any other environmental standards that have jurisdiction over the educational facility.

**Note: LEED is a national third party certification program that provides environmental design recommendations for the construction of high performance environmentally friendly buildings. LEED promotes raising energy performance in buildings in the areas of sustainable site development, water savings, energy efficiency, materials selection and indoor environmental quality.*

[U.S. General Services Administration - LEED](#)



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Reporting Requirements

Additionally, the legislation requires annual reports from local educational agencies to their state detailing their use of grant funds and for the states to then report this information to the Department of Education. The Department of Education must report to Congress on grants made under this Act.

AMENDMENTS

1. Rep. George Miller (D-CA) – In addition to making various technical changes, the amendment clarifies or adds certain allowable uses of funds, clarifies the Act's green building requirements, and adds certain reporting requirements.
2. Rep. Vernon Ehlers (R-MI) – Would establish a moratorium on using federal funds to purchase carbon offsets with the funding authorized in the bill.
3. Reps. Shea-Porter (D-NH), Peter Welch (D-VT), Michael Arcuri (D-NY), Paul Hodes (D-NH) – Would allow funding authorized by the bill to be used for renewable energy generation and heating systems in schools.
4. Rep. Tom Davis (R-VA) – Would allow for priority consideration to science and technology schools once the funds reach their local educational agencies.
5. Reps. Bart Stupak (D-MI) / Peter Visclosky (D-IN) – Would require a local educational agency to use American steel and iron for modernization, renovation or repair projects at a public school facility. Includes waivers if iron and steel are not produced in the U.S. in sufficient and reasonably available quantities and if iron and steel produced in the U.S. will increase the cost of the overall project by more than 25 percent.
6. Rep. Kevin Brady (R-TX) – Would include Texas in Title II of the bill.
7. Rep. Jim Matheson (D-UT) – Provides that schools and local educational agencies receiving grants under this bill shall report, if they installed flooring whether it was: 1) low- or no-VOC (Volatile Organic Compounds) flooring; 2) made from sustainable materials; and 3) cost effective.
8. Rep. David Reichert (R-WA) – Provides that local educational agencies may use a grant for modernization, renovation, or repair of public school facilities to reduce class size.

COST

The Congressional Budget Office "estimates that H.R. 3021 would increase discretionary spending by \$20.3 billion over the 2009-2013 period."

[CBO cost estimate for H.R. 3021](#)

ADDITIONAL VIEWS

Education and Labor Committee Republicans (Fact sheet prepared by the Committee staff):

The *21st Century Green High-Performing Public School Facilities Act* (H.R. 3021) creates a massive and unproven \$20 billion federal school construction program that undermines efforts to increase funding for important education priorities such as Title I and IDEA. The bill would undermine efforts at the state and



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local level to build and modernize schools while significantly expanding the size and scope of the federal government. More specifically, H.R. 3021:

- **Siphons resources from longstanding education priorities.** The Congressional Budget Office estimates that H.R. 3021 would cost \$20 billion over the next five years, diverting significant resources from programs that are already funded below their authorized level. For example:
 - The Title I program for disadvantaged students was authorized at \$25 billion in FY 2007 (the last year with an authorized funding level), yet is currently funded at \$13.9 billion.
 - The federal government has committed to provide up to 40 percent of the additional cost of educating children with disabilities, yet is currently funding only about 17 percent of that added cost.

The creation of a new federal school construction program adds another competing program that will make it increasingly difficult to fulfill funding commitments already in place.

- **Fails to meet state and local needs.** Although its \$20 billion price tag will significantly undercut programs like Title I and IDEA, its impact on school construction needs would be negligible. According to the National Center for Education Statistics, the unmet need for school construction and renovation is estimated at \$112 billion. In 2007 alone, states and local communities spent approximately \$20.75 billion on school construction projects. By authorizing a federal injection of \$6 billion in the first year, H.R. 3021 would have only a minor impact on school construction needs, yet could have a devastating impact on support for programs that directly serve disadvantaged children.
- **Increases project costs through imposition of Depression-era Davis-Bacon wage mandates.** H.R. 3021 will drive up the cost of school construction projects by requiring compliance with the Davis-Bacon Act, a more than seven decade old law that imposes costly and burdensome wage requirements that have been proven to be flawed. Projects conducted under

the requirements of the Davis-Bacon Act commonly cost between 22 and 26 percent more when

compared to similar projects completed under market conditions. Davis-Bacon wages have been shown to both overestimate and underestimate actual prevailing wages, meaning that either taxpayers or workers are shortchanged by the law. Moreover, its complicated requirements often prevent small businesses from participating in projects saddled with the law's mandates.

- **Threatens state, local, and private support for educational infrastructure.** Introduction of a new federal program for school construction could have severe unintended consequences, including the possibility that states, local communities, and private sector investors could back away from their responsibility to build and maintain safe and modern schools. H.R. 3021 represents a massive and unprecedented shift in the education funding dynamic, with the federal government threatening to usurp responsibility for building schools, arguably one of the most fundamental responsibilities of states and communities.

H.R. 3021 would undermine the state and local educational agencies' responsibility for school construction; it would diminish support for programs that serve disadvantaged students; and it would do these things without having a meaningful impact on our educational infrastructure needs.

The Statement of Administration Policy issued by the White House contains a veto threat and states that: "The Federal Government's responsibility for elementary and secondary education is properly focused on raising the academic achievement of all students and improving accountability for results, which this



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Administration has done. The Federal role should not be expanded to fund school modernization and repair projects at thousands of school districts across the Nation. If H.R. 3021 were presented to the President in its current form, his senior advisors would recommend that he veto the bill."

ADDITIONAL INFORMATION

[Republican Education and Labor Committee Report on Federal School Construction Mandates](#)

[Dear Colleague from Republican Members of the Committee on Education and Labor - May 29, 2008](#)

[Dear Colleague from Republican Members of the Committee on Education and Labor – June 2, 2008](#)

STAFF CONTACT

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